

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



LILLIAN H. BURTON,	)	
	)	
Charging Party,	)	Case No. LA-CO-793
	)	
v.	)	Request for Reconsideration
	)	PERB Decision No. 1358
LOS ANGELES COUNTY EDUCATION	)	
ASSOCIATION, CTA/NEA,	)	PERB Decision No. 1358a
	)	
Respondent.	)	February 11, 2000
_____	)	

Appearances: Lillian H. Burton, on her own behalf; John F. Kohn, Negotiations and Organizational Development Specialist, for Los Angeles County Education Association, CTA/NEA.

Before Caffrey, Chairman; Dyer and Amador, Members.

DECISION

DYER, Member: This case comes before the Public Employment Relations Board (PERB or Board) on a motion for reconsideration filed by Lillian H. Burton (Burton) of the Board's decision in Lillian H. Burton v. Los Angeles County Education Association. CTA/NEA (1999) PERB Decision No. 1358 (LACEA).<sup>1</sup> In that decision the Board adopted the Board agent's dismissal of Burton's charge alleging that Los Angeles County Education Association, CTA/NEA (Association) violated section 3543.6(b) of the Educational Employment Relations Act (EERA)<sup>2</sup> by not representing her when she

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<sup>1</sup>The Board notes that the pleading filed by Burton is not titled as a motion for reconsideration. However, in light of the fact that the document was filed within the time period for reconsideration, and that the arguments presented in this document ask the Board to reevaluate its prior decision, we address it as a motion for reconsideration.

<sup>2</sup>EERA is codified at Government Code section 3540 et seq. Section 3543.6 provides, in relevant part:

was ordered to leave the campus on September 22, 1998, due to her failure to comply with the Los Angeles County Office of Education procedures regarding a return from medical leave.

After reviewing the entire record, including Burton's request and the Association's response, the Board hereby denies the request for reconsideration.

#### DISCUSSION

In LACEA, the Board concluded that Burton's charge did not state a prima facie case. Reconsideration requests are governed by PERB Regulation 32410(a),<sup>3</sup> which states:

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. . . . The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

On November 22, 1999, Burton filed the instant request

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It shall be unlawful for an employee organization to:

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain or coerce employees because of their exercise of rights guaranteed by this chapter.

<sup>3</sup>PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. A revision of PERB Regulation 32410 became effective January 3, 2000, subsequent to the filing of this request. The revision has no bearing on the Board's consideration in this case.

seeking reconsideration of the Board's decision in LACEA. The request consists of an eight page document in which Burton reargues facts previously introduced and ruled upon by the Board. In an attachment to this document, Burton also presents a letter from Andrea Wakefield (Wakefield), representative for the Association. The letter states that Wakefield did not meet with school officials on Burton's behalf as an Association representative on either September 22 or 23, 1998. Burton claims that the Board agent's dismissal letter, adopted by the Board in LACEA, indicates that Wakefield provided assistance to Burton "during and after the meeting" of September 22, 1998. Burton claims that this constitutes prejudicial error of fact.

The grounds offered by Burton do not constitute grounds for reconsideration pursuant to PERB Regulation 32410. In reviewing requests for reconsideration, the Board has strictly applied the limited grounds included in that regulation, specifically to avoid the use of the reconsideration process to reargue or relitigate issues which have already been decided. (Redwoods Community College District (1994) PERB Decision No. 1047a; State of California (Department of Corrections) (1995) PERB Decision No. 1100a-S; Fall River Joint Unified School District (1998) PERB Decision No. 1259a.) In numerous request for reconsideration cases, the Board has declined to reconsider matters previously offered by the parties and rejected in the underlying decision. (California State University (1995) PERB Decision No. 1093a-H;

California State Employees Association. Local 1000 (Janowicz)  
(1994) PERB Decision No. 1043a-S; California Faculty Association  
(Wang) (1988) PERB Decision No. 692a-H; Tustin Unified School  
District (1987) PERB Decision No. 626a; Riverside Unified School  
District (1987) PERB Decision No. 622a.)

Therefore, the portion of Burton's request which restates matters considered previously by the Board must be rejected.

With regard to the Wakefield letter, while the description of the assistance provided by Wakefield included in the dismissal letter may not be precise, it evidences no prejudicial error of fact that would cause us to reconsider our decision.

The Board concludes that Burton's request fails to comply with PERB Regulation 32410.

#### ORDER

Lillian H. Burton's request for reconsideration of the Board's decision in Lillian H. Burton v. Los Angeles County Education Association, CTA/NEA (1999) PERB Decision No. 1358 is hereby DENIED.

Chairman Caffrey and Member Amador joined in this Decision.